

# An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment

## PART B

### ENERGY COST REDUCTION

~~Sec. B-1. 10 MRSA §963-A, sub-§11-A~~ is enacted to read:

~~11-A. Energy cost reduction contract. — "Energy cost reduction contract" means a contract executed in accordance with Title 35-A, chapter 19 to procure natural gas pipeline capacity.~~

~~Sec. B-2. 10 MRSA §1041, sub-§2-A~~ is enacted to read:

~~2-A. Securities for energy cost reduction contracts. — Issue revenue obligation securities to pay the cost of or to provide financial assistance for an energy cost reduction contract in accordance with section 1056.~~

~~Sec. B-3. 10 MRSA §1056~~ is enacted to read:

#### ~~§ 1056. Energy cost reduction contracts~~

~~If directed by the Public Utilities Commission, the authority shall issue revenue obligation securities for the amount necessary to fund the State's obligations under an energy cost reduction contract pursuant to Title 35-A, section 1908, subsection 1. The authority may request from the Public Utilities Commission funds from the Energy Cost Reduction Trust Fund established in Title 35-A, section 1907, subsection 1 to make payments on bond obligations under this section. If there are not sufficient funds in the Energy Cost Reduction Trust Fund to make those payments, the authority may request that the Public Utilities Commission recover the costs of the bond in the rates of utilities and by other means provided pursuant to Title 35-A, section 1908, subsection 2, paragraph A, and the Public Utilities Commission shall do so.~~

~~Sec. B-4. 23 MRSA §1803-C, sub-§2, ¶A, as enacted by PL 2011, c. 652, §7 and affected by §14, is repealed.~~

~~Sec. B-1. 35-A MRSA §4508, sub-§1~~ is amended to read:

~~1. Natural gas pipeline utilities subject to commission's authority. A natural gas pipeline utility organized to construct or operate an interstate natural gas pipeline, which holds a certificate of public convenience and necessity issued under the Federal Natural Gas Act authorizing it to construct or operate a natural gas pipeline and appurtenant facilities within the State, or an intrastate natural gas pipeline utility, which has obtained authorization from the commission, is subject to the authority of the commission.. The commission shall adopt policies which reduce the probability of methane leakage from facilities as part of its regulation under this chapter.~~

# An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment

Sec. B-2. 35-A MRSA c. 19 is enacted to read:

## CHAPTER 19

### THE MAINE ENERGY COST REDUCTION ACT

#### § 1901. Short title

This chapter may be known and cited as "the Maine Energy Cost Reduction Act."

#### § 1902. Definitions

As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

1. **Basis differential.** "Basis differential" means the difference between the Henry Hub spot price and the corresponding cash spot price for natural gas in New England.

2. **Energy cost-reduction contract.** "Energy cost-reduction contract" or "contract" means a contract executed in accordance with this chapter to procure capacity on a natural gas transmission pipeline, including, when applicable, compression capacity.

~~1. **Investor-owned transmission and distribution utility.** "Investor-owned transmission and distribution utility" has the same meaning as in section 3104, subsection 1, paragraph A.~~

~~3. **ISO-NE region.** "ISO-NE region" means the independent system operator of the New England bulk power system or successor organization.~~

2. **ISO-NE region.** "ISO-NE region" means the region in which the New England bulk power system operated by the independent system operator of the New England bulk power system or a successor organization is located.

3. **Pipeline capacity holder.** "Pipeline capacity holder" means any person owning rights to natural gas pipeline capacity.

4. **Trust fund.** "Trust fund" means the Energy Cost Reduction Trust Fund established under section 1907, subsection 1.

#### § 1903. Legislative findings

The Legislature finds that:

1. **Electricity prices.** It is in the public interest to decrease prices of electricity and

# An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment

natural gas for consumers in this State;

**2. Natural gas expansion.** The expansion of natural gas transmission capacity into this State and other states in the ISO-NE region ~~would~~ could result in lower natural gas prices and, by extension, lower electricity prices for consumers in this State;

## **§ 1904. Energy cost-reduction contracts**

The commission may execute an energy cost-reduction contract in accordance with this section. In no event may the commission execute ~~an~~ energy-cost reduction ~~contract~~ contracts for the transmission of greater than a cumulative total of two hundred million cubic feet of natural gas per day or for a total amount that exceeds \$75,000,000 annually.

**1. Prior to executing an energy cost reduction contract.** Before executing an energy cost-reduction contract, the commission shall:

**A.** Pursue, in appropriate regional and federal forums, market and rule changes that will reduce the basis differential for gas coming into New England and increase the efficiency with which gas brought into New England and Maine is transmitted, distributed and used. If the commission concludes that those market or rule changes will, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost-reduction contract, the commission may not enter an energy cost-reduction contract;

**B.** Explore all reasonable opportunities for private participation in securing additional gas pipeline capacity that would achieve the objectives in subsection 2. If the commission concludes that private transactions, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost-reduction contract, the commission may not execute an energy cost-reduction contract; and

**C.** In consultation with the Public Advocate and the Governor's Energy Office, hire a consultant with expertise in natural gas markets to make recommendations regarding the execution of an energy-cost reduction contract. The commission shall consider those recommendations as part of the adjudicatory proceeding under subsection 2.

**2. Commission determination of benefits.** After satisfying the requirements of subsection 1, the ~~The~~ commission may execute or direct a transmission and distribution utility, gas utility or natural gas pipeline utility to execute an energy cost-reduction contract if the

# An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment

commission has determined, in an adjudicatory proceeding, that the agreement is commercially reasonable and in the public interest and that the contract is reasonably likely to:

- A. Materially enhance natural gas transmission capacity ~~within and~~ into the State or into the ISO-NE region ~~where such~~ and that additional capacity will be economically beneficial to electric consumers, natural gas consumers or both in the State and that the overall costs of the contract are outweighed by its benefits to electric consumers, natural gas consumers or both in the State; and
- B. Enhance electrical and natural gas reliability in the State.;

~~B. The commission has explored all reasonable opportunities for private participation in securing additional pipeline capacity that would achieve the objectives set forth in subsection A above, and~~

~~C. The commission pursues, in appropriate federal forums, market and rule changes that will reduce the basis differential for gas coming into New England and increase the efficiency with which gas brought into New England and Maine is transmitted, distributed and used. The achievement of such market or rule changes shall not be a precondition to the execution of a contract for pipeline capacity unless the commission concludes that those market or rule changes will, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of a contract for pipeline capacity.~~

4. **Funding of Parties to an Energy Cost Reduction Contract.** Pursuant to section 1904, the commission may execute, or direct to be executed, an energy cost reduction contract in accordance with this section.

- A. **Utility participation.** The commission may direct a ~~an investor-owned~~ transmission and distribution utility, a gas utility or a natural gas pipeline utility to be a counterparty to an energy cost-reduction contract, ~~and to enter agreements to purchase natural gas pipeline capacity from a natural gas pipeline company on a natural gas pipeline if the commission finds that such an agreement is commercially reasonable and in the public interest and meets the same benefits criteria as in §1904 subsection 1, subparagraph A.~~ In determining whether and to what extent to direct a utility to be a counterparty to a contract under this subsection, the commission shall consider the anticipated reduction in the price of gas or electricity, as applicable, accruing to the customers of the utility as a result of the contract as determined by the commission in an adjudicatory proceeding.

Any economic loss, including but not limited to any effects on the cost of capital resulting from an energy cost-reduction contract for ~~an investor-owned a~~ transmission and distribution utility, a gas utility or a natural gas pipeline utility,

# An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment

~~is deemed to be prudent and must be reflected in rates. the commission shall allow full recovery through the utility's rates. The commission may direct an investor owned a transmission and distribution utility, a gas utility or a natural gas pipeline utility to implement an assessment to collect funds from ratepayers for the purposes of funding an energy cost reduction contract pursuant to section 1908, subsection 2, paragraph B. Any profit, as determined by the commission by rule or order, resulting from an energy cost reduction contract must be deposited into the trust fund.~~

~~**B. Other joint contracts.** If the commission concludes that an energy cost-reduction contract can be achieved with the participation of other entities, the commission may contract jointly with other entities, including other state agencies and instrumentalities, governments in other states and nations, utilities and generators.~~

~~**C. Commission contract.** The commission may execute an energy-cost reduction contract as a principal and counterparty. ~~agreement to purchase natural gas pipeline capacity from a natural gas pipeline company on a natural gas pipeline if the commission finds that such an agreement is commercially reasonable and in the public interest as determined by the commission. Where the commission executes such a contract under this subsection, the commission may:~~~~

~~**5. Approval by the Governor.** The commission may not execute or direct the execution of an energy cost-reduction contract unless the Governor has approved the execution of the energy cost-reduction contract.~~

## **§1907. Funding of an energy cost-reduction contract**

~~An energy cost-reduction contract to procure natural gas transmission pipeline capacity may be funded in accordance with this section.~~

~~**1. Assessments on ratepayers.** The commission may direct a transmission and distribution utility, a gas utility or a natural gas pipeline utility to collect an assessment from ratepayers for the following purposes:~~

~~**A.** To finance the participation of a transmission and distribution utility, a gas utility or a natural gas pipeline utility in an energy cost-reduction contract; and~~

~~**B** To pay the costs of energy cost-reduction contract evaluation and administration under section 1905, subsection 2.~~

~~All assessments must be just and reasonable as determined by the commission and must be identified as an energy cost-reduction contract charge on a ratepayer's utility bill. When~~

# An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment

determining just and reasonable assessments, the commission shall consider the anticipated reduction in the price of gas or electricity, as applicable, accruing to different sets ratepayer as a result of the contract.

- 2. Assessments on utilities.** If the commission is the principle and counter party on the contract, the commission may:
  - A. Assess ~~each~~ transmission and distribution utilities company, and each natural gas utilities and natural gas pipeline utilities in proportion to the likely benefits anticipated reduction in the price of gas or electricity, as applicable, accruing as a result of the contract to the customers of such companies the utility for any and all net costs to the commission of the commission's performance of said agreement as determined by the commission in an adjudicatory proceeding. The cost to the utility of any such the assessment may be recovered by the utility in rates in the same manner as any other prudently incurred cost; and
- 3. Volumetric Fee.** The commission may establish and direct the payment to the trust fund of a volumetric fee on the use of natural gas by a consumer of natural gas obtained from a source other than a natural gas utility or a natural gas pipeline utility of this state in proportion to the likely benefits anticipated reduction in the price of gas accruing to that consumer as a result of the contract as determined by the commission in an adjudicatory proceeding.

**§ 1905 Contract Resale and Administration.** The following provisions govern the resale and evaluation and administration of an energy cost-reduction contract.

**1. Resale of natural gas pipeline capacity.** The commission may negotiate and enter into contracts for the resale of all or a portion of the reserved natural gas transmission pipeline capacity acquired through an energy cost-reduction contract pursuant to this section as long as. All of the revenue received as a result of the resale is must be deposited into the trust fund.

**~~B. Joint contracts.~~** If the commission concludes that an energy cost reduction contract can be achieved with the participation of other entities, the commission may contract jointly with other entities, including other state agencies and instrumentalities, governments in other states and nations, utilities and generators.

**2. Contract evaluation and administration.** The commission is responsible for assessing, analyzing, negotiating, implementing and monitoring compliance with energy cost-reduction contracts. The commission may use funds for this purpose from the trust fund or by may collect funds for this purpose through just and reasonable assessments placed on an investor owned a transmission and distribution utility, a gas utility or a natural gas pipeline utility pursuant to section 1908 1907, subsection 1 2, paragraph B C.

# An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment

## § 1907. Revenues from energy cost-reduction contracts

Revenues received from the resale of an energy cost-reduction contract must be used in accordance with this section.

**1. Establishment of Energy Cost Reduction Trust Fund.** The Energy Cost Reduction Trust Fund is established as a nonlapsing fund administered by the commission for the purposes of this section. The commission is authorized to receive and shall deposit in the trust fund and expend in accordance with this section revenues received from an energy cost-reduction contract and revenues received from the resale of a natural gas pipeline capacity acquired through an energy cost reduction contract. ~~under section 1904, subsection 5.~~

The funds are held in trust for the purposes of reducing the energy costs of consumers in the State except as described in subsection 2 and may not be used for any other purposes.

**2. Distribution of funds.** The commission shall distribute funds in the trust fund according to the following priorities in the following order of priority:

A. As a first priority, to the costs of monitoring and administering a contract pursuant to section ~~1904~~ 1905, subsection ~~7~~ 2;

~~B. As a 2nd priority, to the repayment of any bond obligations under section 1908, subsection 1; and~~

B. As a ~~3rd~~ second priority, ~~at the commission's discretion,~~ to utilities and other entities to reduce energy costs for electricity and natural gas ratepayers and consumers subject to a volumetric fee under section X, subsection X. The commission may distribute funds to benefit ratepayers of one or more ~~investor-owned~~ transmission and distribution utilities, natural gas pipeline utilities ~~or~~, natural gas utilities or consumers subject to a volumetric fee under section X, subsection X in a manner that the commission finds is equitable, just and reasonable.

## § 1908. Alternative Funding of an energy cost-reduction contract

An energy cost-reduction contract to procure natural gas transmission pipeline capacity may be funded in accordance with this section.

**1. Bonds.** The commission may direct the Finance Authority of Maine, established in Title 5, section 12004 F, subsection 1, to issue revenue obligation securities in the amount necessary to fund the State's obligations under an energy cost-reduction contract to procure natural gas transmission pipeline capacity.

**2. Assessments.** The commission may direct an investor-owned a transmission and distribution utility, a gas utility or a natural gas pipeline utility to collect an assessment from ratepayers for the following purposes:

# An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment

~~A. At the request of the Finance Authority of Maine, pursuant to Title 10, section 1056, to pay the obligations of a bond issued under subsection 1;~~

~~B. To finance the participation of an investor owned a transmission and distribution utility, a gas utility or a natural gas pipeline utility in an energy cost reduction contract pursuant to section 1906, subsection 3; and~~

~~C. To pay the costs of energy cost reduction contract evaluation and administration under section 1904, subsection 7.~~

~~All assessments must be just and reasonable as determined by the commission and must be identified as an energy cost reduction contract charge on a ratepayer's utility bill.~~

## **§ 1908. Exemption from state purchasing agent rules**

~~Notwithstanding any other provision of law, agreements and contracts entered into pursuant to this chapter are not subject to the competitive bid requirements of the State Purchasing Agent.~~

## **§ 1909. Market power investigation**

~~The commission may on its own motion, with or without notice, summarily investigate the exercise of market power by a natural gas pipeline utility, gas utility or pipeline capacity holder. If, after the summary investigation, the commission determines it necessary, it may hold a public hearing in accordance with section 1304. Notwithstanding section 1304 and Title 5, section 9052, the commission must notify the utility under investigation in writing of the matter under investigation and 7 days after the commission has given notice the commission may set the time and place for the public hearing.~~

## **§ 1910. Rulemaking**

~~The commission may adopt rules to implement this chapter. When adopting rules, the commission shall consider the financial implications of this chapter for investor owned transmission and distribution utilities, natural gas pipeline utilities and gas utilities. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

**§1911. Reports.** ~~The commission shall include in its annual report under section 120, subsection 3, a description of its efforts to pursue, in appropriate regional and federal forums, market and rule changes that will reduce the basis differential for gas coming into New England. The commission shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the status of energy cost-reduction contracts on or before December 31, 2015.~~

**§1912. Sunset.** ~~The commission may not execute a cost reduction contract under this chapter after December 31, 2018. The commission may continue to administer existing contracts and enter into agreements regarding the resale of natural gas pipeline capacity purchased through an energy cost reduction contract after December 31, 2018.~~

**An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote  
Electric System Reliability and Protect the Environment**

DRAFT